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VIRGIN RECORDS AMERICA, INC.;  
UMG RECORDINGS, INC.; SONY BMG  
MUSIC ENTERTAINMENT; CAPITOL  
RECORDS, INC.; WARNER BROS.  
RECORDS INC.; and ARISTA RECORDS  
LLC

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CV 08

1045 PVT

VIRGIN RECORDS AMERICA, INC., a  
California corporation; UMG RECORDINGS,  
INC., a Delaware corporation; SONY BMG  
MUSIC ENTERTAINMENT, a Delaware  
general partnership; CAPITOL RECORDS,  
INC., a Delaware corporation; WARNER  
BROS. RECORDS INC., a Delaware  
corporation; and ARISTA RECORDS LLC, a  
Delaware limited liability company,

Plaintiffs,

v.

JOHN DOE,

Defendant.

COMPLAINT FOR COPYRIGHT  
INFRINGEMENT

COMPLAINT FOR COPYRIGHT INFRINGEMENT

Case No. \_\_\_\_\_

#35649 v1

**JURISDICTION AND VENUE**

1  
2 1. This is a civil action seeking damages and injunctive relief for copyright infringement  
3 under the copyright laws of the United States (17 U.S.C. § 101 et seq.).

4 2. This Court has jurisdiction under 17 U.S.C. § 101 et seq.; 28 U.S.C. § 1331 (federal  
5 question); and 28 U.S.C. § 1338(a) (copyright).

6 3. Venue in this District is proper. See 28 U.S.C. §§ 1391(b), 1400(a). Although the  
7 true identity of Defendant is unknown to Plaintiffs at this time, on information and belief, Defendant  
8 may be found in this District and/or a substantial part of the acts of infringement complained of  
9 herein occurred in this District. On information and belief, personal jurisdiction in this District is  
10 proper because Defendant, without consent or permission of the copyright owner, disseminated over  
11 the Internet copyrighted works owned and/or controlled by Plaintiffs. On information and belief,  
12 such illegal dissemination occurred in every jurisdiction in the United States, including this one. In  
13 addition, Defendant contracted with an Internet Service Provider ("ISP") found in this District to  
14 provide Defendant with the access to the Internet which facilitated Defendant's infringing activities.

**PARTIES**

15  
16 4. Plaintiff Virgin Records America, Inc. is a corporation duly organized and existing  
17 under the laws of the State of California, with its principal place of business in the State of New  
18 York.

19 5. Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under the  
20 laws of the State of Delaware, with its principal place of business in the State of California.

21 6. Plaintiff SONY BMG MUSIC ENTERTAINMENT is a Delaware general  
22 partnership, with its principal place of business in the State of New York.

23 7. Plaintiff Capitol Records, Inc. is a corporation duly organized and existing under the  
24 laws of the State of Delaware, with its principal place of business in the State of New York.

25 8. Plaintiff Warner Bros. Records Inc. is a corporation duly organized and existing  
26 under the laws of the State of Delaware, with its principal place of business in the State of  
27 California.  
28

9. Plaintiff Arista Records LLC is a limited liability company duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of New York.

10. The true name and capacity of Defendant are unknown to Plaintiffs at this time. Defendant is known to Plaintiffs only by the Internet Protocol (“IP”) address assigned to Defendant by his or her ISP on the date and time of Defendant’s infringing activity. See Exhibit A. Plaintiffs believe that information obtained in discovery will lead to the identification of Defendant’s true name.

**COUNT I**

## INFRINGEMENT OF COPYRIGHTS

11. Plaintiffs incorporate herein by this reference each and every allegation contained in each paragraph above.

12. Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of exclusive rights under United States copyright law with respect to certain copyrighted sound recordings, including, but not limited to, all of the copyrighted sound recordings on Exhibit A to this Complaint (collectively, these copyrighted sound recordings shall be identified as the “Copyrighted Recordings”). Each of the Copyrighted Recordings is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights to each Plaintiff as specified on each page of Exhibit A.

13. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted Recordings to the public.

14. Plaintiffs are informed and believe that Defendant, without the permission or consent of Plaintiffs, has continuously used, and continues to use, an online media distribution system to download and/or distribute to the public certain of the Copyrighted Recordings. Exhibit A identifies the IP address with the date and time of capture and a list of copyrighted recordings that Defendant has, without the permission or consent of Plaintiffs, downloaded and/or distributed to the public. Through his or her continuous and ongoing acts of downloading and/or distributing to the public the

1 Copyrighted Recordings, Defendant has violated Plaintiffs' exclusive rights of reproduction and  
2 distribution. Defendant's actions constitute infringement of Plaintiffs' copyrights and/or exclusive  
3 rights under copyright. (In addition to the sound recordings listed on Exhibit A, Plaintiffs are  
4 informed and believe Defendant has, without the permission or consent of Plaintiffs, continuously  
5 downloaded and/or distributed to the public additional sound recordings owned by or exclusively  
6 licensed to Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of  
7 infringement are ongoing. Exhibit A includes the currently-known total number of audio files being  
8 distributed by Defendant.)

9 15. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on  
10 each respective album cover of each of the sound recordings identified in Exhibit A. These notices  
11 of copyright appeared on published copies of each of the sound recordings identified in Exhibit A.  
12 These published copies were widely available, and each of the published copies of the sound  
13 recordings identified in Exhibit A was accessible by Defendant.

14 16. Plaintiffs are informed and believe that the foregoing acts of infringement have been  
15 willful, intentional, and in disregard of and with indifference to the rights of Plaintiffs.

16 17. As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights  
17 under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) against  
18 Defendant for each infringement of each copyrighted recording. Plaintiffs further are entitled to  
19 their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

20 18. The conduct of Defendant is causing and, unless enjoined and restrained by this  
21 Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated  
22 or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502  
23 and 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing  
24 Plaintiffs' copyrights, and ordering that Defendant destroy all copies of copyrighted sound  
25 recordings made in violation of Plaintiffs' exclusive rights.

26 WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

27 1. For an injunction providing:  
28

1 “Defendant shall be and hereby is enjoined from directly or indirectly infringing Plaintiffs’  
 2 rights under federal or state law in the Copyrighted Recordings and any sound recording, whether  
 3 now in existence or later created, that is owned or controlled by Plaintiffs (or any parent, subsidiary,  
 4 or affiliate record label of Plaintiffs) (“Plaintiffs’ Recordings”), including without limitation by  
 5 using the Internet or any online media distribution system to reproduce (i.e., download) any of  
 6 Plaintiffs’ Recordings or to distribute (i.e., upload) any of Plaintiffs’ Recordings, except pursuant to  
 7 a lawful license or with the express authority of Plaintiffs. Defendant also shall destroy all copies of  
 8 Plaintiffs’ Recordings that Defendant has downloaded onto any computer hard drive or server  
 9 without Plaintiffs’ authorization and shall destroy all copies of those downloaded recordings  
 10 transferred onto any physical medium or device in Defendant’s possession, custody, or control.”

11 2. For statutory damages for each infringement of each Copyrighted Recording pursuant  
 12 to 17 U.S.C. § 504.

13 3. For Plaintiffs’ costs in this action.

14 4. For Plaintiffs’ reasonable attorneys’ fees incurred herein.

15 5. For such other and further relief as the Court may deem just and proper.

16  
 17 Dated: February 21, 2008

HOLME ROBERTS & OWEN LLP

18  
 19 By 

20 MATTHEW FRANKLIN JAKSA

21 Attorney for Plaintiffs

22 VIRGIN RECORDS AMERICA, INC.; UMG  
 23 RECORDINGS, INC.; SONY BMG MUSIC  
 24 ENTERTAINMENT; CAPITOL RECORDS,  
 25 INC.; WARNER BROS. RECORDS INC.; and  
 26 ARISTA RECORDS LLC  
 27  
 28

**EXHIBIT A****JOHN DOE****IP Address:** 169.233.32.5 2007-06-06 17:08:51 EDT**CASE ID#** 132019188**P2P Network:** GnutellaUS**Total Audio Files:** 68

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
UMG Recordings, Inc.	Sheryl Crow	The First Cut is the Deepest	The Very Best of Sheryl Crow	350-992
SONY BMG MUSIC ENTERTAINMENT	Macy Gray	I Try	On How Life Is	267-460
Capitol Records, Inc.	Tina Turner	The Best	Foreign Affair	107-731
Virgin Records America, Inc.	UB40	Can't Help Falling In Love	Promises And Lies	186-039
Virgin Records America, Inc.	David Bowie	Fame	Young Americans	N22804
SONY BMG MUSIC ENTERTAINMENT	Fiona Apple	Criminal	Tidal	227-923
Warner Bros. Records Inc.	Depeche Mode	Personal Jesus	Personal Jesus (single)	107-471
SONY BMG MUSIC ENTERTAINMENT	Incubus	Pardon Me	Make Yourself	278-818
Arista Records LLC	Annie Lennox	Why	Diva	145-693